

**MINUTES**  
**BOARD FOR LICENSING HEALTH CARE FACILITIES**  
**February 2, 2005**

The Board for Licensing Health Care Facilities was called to order by Dr. James T. Galyon on February 2, 2005, commencing at 9:00 a.m.

Ms. Green called the roll to establish a quorum.

Dr. James T. Galyon, Chairman Pro Tem  
Mr. Ron Arrison  
Dr. Duane Budd  
Ms. Charlotte Burns  
Mr. Robert Gordon  
Mr. Jim Hastings  
Mr. Albert Jones  
Ms. Carrisa Lynch  
Ms. Annette Marlar  
Ms. Nancy Peace  
Dr. Roxane Spitzer  
Dr. Ronald Staples  
Dr. Joe T. Walker  
Dr. Jon Winter  
Ms. Bettye Zier

Members not present:

Dr. Larry Arnold, Chairman  
Ms. Elizabeth Chadwell  
Dr. Douglas Leahy

Present and representing the Office of General Counsel:

Mr. Richard Russell

Also present:

Ms. Cathy Green, Director, Board for Licensing  
Ms. Katy Gammon, Director, Health Care Facilities  
Ms. Wanda Hines, Board Administrator  
Ms. Faye Vance, East TN Regional Administrator  
Ms. Shirley Jones, West TN Regional Administrator  
Ms. Nina Monroe, Middle TN Regional Administrator  
Mr. Bill Harmon, Director of Engineering

A quorum was established by roll call vote.

Ms. Green introduced new board members, Carrisa Lynch, Dr. Ronald Staples, and interim legal counsel, Richard Russell. Ms. Lynch replaces Dr. F. Clifton Exum, as the Doctor of Pharmacy and Dr. Staples is filling the Oral Surgeon vacancy. Richard Russell, Attorney is the interim legal counsel from the Office of General Counsel to replace Ernie Sykes until a new attorney is assigned.

### **APPROVAL OF MINUTES**

The first order of business was approval of the November 3, 2004 minutes.

A motion was made and seconded to approve the minutes as written.

Motion carried.

### **REPORTS TO THE BOARD**

#### **Department Report**

Ms. Green informed the Board that the first Board orientation was held February 1<sup>st</sup>, 2005 with five board members in attendance. The orientation was developed per board member requests and the first one proved to be very beneficial. Any board member is encouraged to attend future orientation dates.

Ms. Green reported on the status of sprinklers. The department has worked diligently to be sure nursing homes, assisted living and residential homes for the aged are submitting sprinkler plans within the timeframes set out by legislation. Currently 17.25% nursing homes, 5.88% assisted livings and 40.14% of RHAs are not in compliance.

Ms. Green reported the team for the AHRQ grant had just finished the 2<sup>nd</sup> week of training in San Diego and both pilot hospitals are rolling out innovative patient safety plans. The group will share lessons learned with other hospitals through the Tennessee Hospital Association. The project will continue through May 2005.

Ms. Green provided the Board with the 4<sup>th</sup> quarter and the annual 2004 report on unusual events. Falls and code 901 "other" category continues to rate highest in all facilities with falls making up 25.05% of all reports and "other" making up 30.05%. There were a total of 4,919 unusual events reported to the Department in 2004.

## **REGULATIONS**

### **BOARD APPROVAL TO GO TO RULEMAKING HEARING**

**1200-8-19 Standards for DUI Schools**

**1200-8-20 Standards for Primary Prevention Facilities**

**1200-8-18 Standards for Non-Residential Treatment Facilities**

**1200-8-21 Standards for Non-Residential Narcotic Facilities**

**1200-8-2 Standards for Prescribed Child Care Centers**

To standardize building standard language for all regulations according to appropriate occupancy requirements. This will also bring regulations in line with recent revisions to all other regulations as recommended by the Department of Health.

Motion was made by Mr. Arrison, seconded by Mr. Jones to:

**SEND THE DUI SCHOOLS, PRIMARY PREVENTION FACILITIES, NON-RESIDENTIAL TREATMENT FACILITIES, NON-RESIDENTIAL NARCOTIC FACILITIES AND THE PRESCRIBED CHILD CARE CENTERS RULES FOR RULEMAKING HEARING.**

Motion carried by voice vote.

### **APPROVAL FOR FINAL FILING**

**1200-8-1 Standards for Hospitals**

**1200-8-10 Standards for Ambulatory Surgical Treatment Centers**

To add statutory language from Public Chapter 532 requiring hospitals to employ surgical technologists.

Motion was made by Dr. Budd, seconded by Mr. Hastings to:

**FORWARD THE HOSPITALS AND AMBULATORY SURGICAL TREATMENT CENTERS RULES FOR FINAL FILING.**

Motion carried by roll call vote.

**1200-8-35 Outpatient Diagnostic Centers**

Promulgation of new rules as authorized in Public Chapter 917.

Motion was made by Mr. Gordon, seconded by Dr. Budd to:

**FORWARD THE OUTPATIENT DIAGNOSTIC CENTERS RULES FOR FINAL FILING, PROVIDED THE DEFINITION FOR ODC IS REVISED TO REFLECT HSDA DEFINITION.**

Motion carried by roll call vote.

**1200-8-1 Hospitals**  
**1200-8-10 ASTC**  
**1200-8-11 RHA**  
**1200-8-15 Residential Hospice**  
**1200-8-17, 22, 23 A/D Residential Rehab, Halfway House & Residential  
Detox**  
**1200-8-18 Non-Residential Treatment Facilities**  
**1200-8-19 DUI School Facilities**  
**1200-8-20 Prevention Program Facilities**  
**1200-8-21 Non-Residential Narcotic Treatment Facilities**  
**1200-8-24 Birthing Centers**  
**1200-8-25 ACLF**  
**1200-8-26 Home Health**  
**1200-8-27 Hospice**  
**1200-8-28 HIV Supportive Living**  
**1200-8-29 Home Medical Equipment**  
**1200-8-32 ESRD**

Statutory revisions made according to Public Chapter 780 requiring all licensed facilities to post contact numbers for Adult Protective Services and local District Attorney.

Motion was made by Mr. Gordon, seconded by Mr. Arrison to:

**FORWARD THE HOSPITALS, ASTC, RHA, RESIDENTIAL HOSPICE, A/D RESIDENTIAL REHAB, HALFWAY HOUSE & RESIDENTIAL DETOX, NON-RESIDENTIAL TREATMENT FACILITIES, DUI SCHOOL FACILITIES, NON-RESIDENTIAL NARCOTIC TREATMENT FACILITIES, BIRTHING CENTERS, ACLF, HOME HEALTH, HOSPICE, HIV SUPPORTIVE LIVING, HOME MEDICAL EQUIPMENT, AND ESRD FOR FINAL FILING.**

Motion carried by roll call vote.

#### **ADVANCE DIRECTIVE FORMS**

**Advance Directives Task Force Recommendations**

**Physician Orders for Scope of Treatment (POST) Form**

**Advance Care Plan**

**Appointment of Health Care Agent**

This board approved these forms to go through rulemaking hearing at its November 2004 meeting with the caveat that the Department would pull together the Advance Directive Task Force to review and would bring these recommendations back to the Board. Three different forms came from this group. The Physician Order for Scope of Treatment (POST) form and the Advance Care Plan was the first two presented to the board. The third form is the Appointment of Health Care Agent. It was presented to the Board by Attorney Charles Keys at the November Board meeting. Chris Puri, Attorney from the Tennessee Health Care Association had several comments regarding the promulgation of the forms not being mandatory but as model forms,

legal aspects of the forms pending the requested Attorney General's opinion, but they recommend and supported all three forms.

Motion was made by Mr. Arrison, seconded by Mr. Gordon to:

**APPROVE THE PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST) FORM, ADVANCE CARE PLAN, AND THE APPOINTMENT OF HEALTH CARE AGENT AS MODEL FORMS TO BE PLACED ON THE DEPARTMENT'S WEBSITE.**

Motion carried by roll call vote.

### **WAIVER REQUESTS**

Ms. Green gave a brief summary of each of the following waiver requests:

#### **VANDERBILT UNIVERSITY MEDICAL CENTER, NASHVILLE**

This facility is requesting a waiver of current regulations related to square footage requirements for six bedrooms on the fourth floor to be used for six acute care inpatient beds within the current licensed bed capacity of the hospital. The rooms originally serve as labor and delivery suites and will be used to care for urgent prenatal, antepartum and postpartum patients and will alleviate some of the current overcrowding. It is intended that the proposed use be temporary until the space needs of the obstetrical service can be addressed in a Certificate of Need for additional beds.

After much discussion between the Board members, Bill Harmon, Facility Specialist, and Vanderbilt University Medical Center representatives, it was determined that:

**NO SUCH WAIVER IS REQUIRED. THERE ARE NO SQUARE FOOTAGE REQUIREMENTS FOR ACUTE CARE INPATIENT ROOMS AND ALTHOUGH THE ROOMS ARE NOT OPTIMAL IN SIZE OR CONFIGURATION, THERE WAS NO ACTION TAKEN OR REQUIRED BY THE BOARD.**

#### **PENINSULA HOSPITAL, KNOXVILLE AND PARKWEST MEDICAL CENTER, LOUISVILLE-SATELLITE REQUEST**

Covenant Health who controls both hospitals is seeking approval for Peninsula Hospital, a 155-bed mental health hospital in Louisville, TN to become a satellite of Parkwest Medical Center, a 307 bed hospital in West Knoxville.

Motion was made by Mr. Arrison, seconded by Dr. Budd to:

**ALLOW PENINSULA PSYCHIATRIC HOSPITAL TO BECOME A SATELLITE OF PARKWEST MEDICAL CENTER.**

Motion carried by voice vote.

Richard Russell, General Counsel was asked to explain to the Board how a member should act if he perceives that he/she might have a conflict of interest in a particular issue that is brought before the Board. Mr. Russell explained in general that once you perceive that a potential conflict may be there before that business is taken up by the Board you should disclose that potential conflict on the record. At that point after disclosure, the second part is to make a determination whether that conflict or potential conflict would preclude you from making a disinterested decision on the matter. If you determine that no, it would not, then you would disclose and go ahead and proceed at your discretion and participate in that business. On the other hand you may decide that it would not enable you to make a disinterested decision and at that point you should disclose that and not participate that would include even any discussion that would be preliminary to any decision that would be made. Board members were asked to complete the Conflict of Interest form and submit to Wanda Hines after completion.

Dr. Galyon thanked Mr. Russell on the advice and counsel and Ms. Green continued to the next waiver request.

**LAKESIDE ALCOHOL AND DRUG FACILITY AND PSYCHIATRIC HOSPITAL, MEMPHIS**

Per Board Policy #51 Lakeside Alcohol and Drug Services is requesting the following:

- a waiver to be allowed to share services with Lakeside Psychiatric Hospital which is located in the same building; and
- to waive the requirements under Standard Building Code 704.1.1 requiring an occupancies separation walls.

Motion to affirm Board policy #51 was made by Mr. Arrison, seconded by Mr. Jones to:

**TO ALLOW LAKESIDE ALCOHOL AND DRUG FACILITY TO SHARE SERVICES WITH THE LAKESIDE PSYCHIATRIC HOSPITAL.**

Motion carried by voice vote.

Second discussion was pertaining to the building codes and occupancy wall issues with the Board members, Representatives of Lakeside A&D and Psychiatric Hospital and Mr. Bill Harmon, Facility Specialist. After thorough discussion the Board recognizes the entire building is fully sprinklered and built to institutional standards and waives the requirements under Standard Building Code 704.1.1. A motion was made by Mr. Arrison, seconded by Mr. Hastings to:

**MAKE THIS A ONE (1) HOUR RATED FIRE WALL SEPARATION TO BE CONSTRUCTED BETWEEN THE LICENSED HOSPITAL AND THE ALCOHOL AND DRUG FACILITY THAT IS SEPARATELY LICENSED.**

Motion carried unanimously.

**AMERICARE HEALTH CENTER OF MEMPHIS, LLC, MEMPHIS**

This two hundred-thirty seven (237) bed nursing home is requesting an extension of the previously granted waiver for a licensed nursing home administrator. An administrator was hired first week of January but she terminated her employment. Mr. Michael Hampton, President and CEO is needing more time to find an experience nursing home administrator who will accept the responsibility for a challenging facility.

Mr. Arrison recused himself. Dr. Walker abstained. A motion was made by Mr. Jones, seconded by Mr. Gordon to:

**A NINETY (90) DAY WAIVER EXTENSION WAS GRANTED TO ALLOW THE FACILITY TO OPERATE WITHOUT A LICENSED NURSING HOME ADMINISTRATOR UNTIL A PERMANENT ADMINISTRATOR CAN BE HIRED.**

Motion carried unanimously.

**CONSENT CALENDAR**

Motion was made by Dr. Budd and seconded by Dr. Spitzer to:

**APPROVE WAIVER REQUESTS ON THE CONSENT CALENDAR.**

Motion carried.

**THE FOLLOWING FACILITIES WERE APPROVED TO PROVIDE ADULT DAY CARE:**

**Pendleton House of Love, Memphis  
Noles Home for the Aged, Gallatin**

**THE FOLLOWING FACILITIES WERE GRANTED WAIVERS TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY POLICY 32:**

**Vanco Manor Nursing Center, Goodlettsville**

Mr. Jim Wilkerson asked to address the Board. He is the President of Sequoyah Rehabilitation and the Controller for Brakebill Nursing Home. He had submitted a request for Manor House Assisted Living Facility in Knoxville for outpatient therapy but at the board meeting wanted to change to Brakebill Nursing Home for outpatient therapy. Since Sequoyah request was for Manor House but Manor House did not request this service the request was extracted from the Consent Calendar. Mr. Wilkerson will have to resubmit their request for Brakebill Nursing Home for outpatient therapy services.

Motion was made by Mr. Arrison, seconded by Dr. Walker to:

**APPROVE WAIVER REQUESTS ON THE CONSENT CALENDAR  
EXTRACTING MANOR HOUSE FOR OUTPATIENT THERAPY.**

Motion carried unanimously.

With all business concluded, Dr. Galyon adjourned the meeting.

Respectfully submitted,

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James T. Galyon, M.D.